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SECRETARY OF DEFENSE WILLIAM J. PERRY

MEMORANDUM FOR DEPARTMENT OF DEFENSE OFFICIALS ON SEXUAL HARASSMENT IN

THE DEPARTMENT OF DEFENSE, AS REPORTED IN THE PRESS (SEPTEMBER 30, 1994)
AUGUST 22, 1994

September 30, 1994

PENTAGRAM

Perry clarifies sexual-harassment policy

Stricter enforcement, stronger protections in policy restatement

by Evelyn D. Harris
American Forces Information Service

Secretary of Defense William J. Perry wants everyone in the department to know sexual harassment will not be tolerated.

"It remains the policy of the Department of Defense that sexual harassment is strictly prohibited in the Armed Forces and the civilian work force," Perry wrote in an Aug. 22 memorandum to service chiefs and agency heads. He said harassment is legally actionable even if it does not result in concrete psychological or physical harm to the victim.

DoD defines sexual harassment as a form of sex discrimination involving unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature. These

acts are considered sexual harassment when submitting to or rejecting them affects whether a person gets or keeps a job or promotion or affects working conditions. The conduct is also considered harassment if it interferes with performance or creates an intimidating, offensive or hostile working environment.

Perry added that "work place" is an expansive term for military members and may include conduct on or off duty, 24 hours a day.

Supervisors or commanders who use sexual behavior to affect subordinates' careers are engaging in sexual harassment.

Similarly, any servicemember or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures or physical contact of a sexual nature is engaging in sexual harassment.

Perry outlined 11 guidelines to eliminate sexual harassment. Three of the guidelines are new or are stated more strongly than previous top-level guidance on harassment.

First, Perry said all employees must have access to toll-free, confidential, harassment

advice and counseling hot lines. Second, Perry wants service and agency heads to report semi-annually on the effectiveness of their sexual harassment prevention programs. Previously, they had to report only once a year.

Third, affected personnel in a unit where harassment occurred must receive prompt reports on investigative findings and corrective action. These reports must be as complete as permissible under the privacy act.

In addition, the secretary strengthened language prohibiting reprisals against individuals who report sexual harassment or provide information about harassment incidents. Service and agency heads must establish procedures to investigate and resolve promptly complaints of reprisal.

DoD equal opportunity officials said the department has required sexual harassment training for all civilian and military employees for several years. But Perry ordered the Defense Equal Opportunity Management Institute to provide quality control to ensure all components' training meets certain standards of effectiveness.



THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

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22 AUG 1994

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Prohibition of Sexual Harassment in the Department of Defense (DoD)

It remains the policy of the Department of Defense (DoD) that sexual harassment is strictly prohibited in the Armed Forces and the civilian work force. The definition of sexual harassment is as follows:

Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or*
- (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or*
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment*

The above definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive [Note: "workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day].

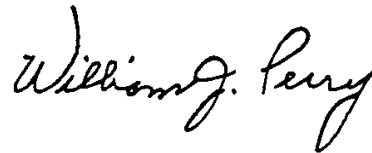
Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

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Attached are initial program guidelines regarding the elimination of sexual harassment in both the military and civilian environments. I have tasked the Defense Equal Opportunity Council Task Force on Discrimination and Sexual Harassment to make additional recommendations to me to eradicate this illegal behavior. These recommendations will result in the adoption of additional sexual harassment program guidelines.

Please send a copy of your implementing instructions to the Under Secretary of Defense (Personnel and Readiness) within 30 days. If you desire assistance or have questions, please contact Mr. Claiborne D. Haughton Jr., Acting Deputy Assistant Secretary of Defense (Equal Opportunity) at (703) 695-0105 or DSN 225-0105.

A handwritten signature in cursive script, reading "William J. Perry". The signature is written in dark ink and is positioned to the right of the main body of text.

Attachment:
As stated

Sexual Harassment Program Guidelines

You are hereby directed to carry out a program that underscores DoD's commitment to eliminating sexual harassment from the DoD work place and to maintaining a work place environment free of unlawful discriminatory practices. As a minimum, your program shall:

- (1) Include the issuance of clear policy statements reaffirming that sexual harassment will not be practiced, condoned, or tolerated;
- (2) Establish training requirements for all military and civilian personnel to give guidance on what constitutes sexual harassment and how DoD personnel who believe they have been subjected to sexual harassment may seek redress;
- (3) Establish quality control mechanisms to ensure that sexual harassment training programs are working;
- (4) Prohibit reprisals against individuals who make a sexual harassment complaint or provide information about incidents of sexual harassment and establish procedures to investigate and resolve promptly complaints of reprisal by individuals;
- (5) Inform DoD personnel, military and civilian, that failure to comply with established policies may be reflected in annual performance ratings and fitness reports and could result in adverse administrative, disciplinary, or legal action;
- (6) Establish toll free advice and counseling hotlines for all personnel to provide confidential assistance in obtaining information relating to sexual harassment and discrimination complaints;
- (7) Assign a high priority to the prompt and thorough investigation and resolution of sexual harassment complaints; and ensure that any corrective action taken is reasonably sufficient to preclude recurrence of discriminatory conduct and addresses any management deficiencies or other contributing factors that gave rise to the allegations;
- (8) Make sexual harassment education, prevention, and complaint resolution high priority items for review in appropriate inspections of and visits to DoD facilities and agencies by the Inspectors General of DoD and the Components;
- (9) Provide semi-annual reports in the format requested by the Under Secretary of Defense (Personnel and Readiness) on your progress, the effectiveness of your programs, and your plans for the future;

- (10) Ensure that affected personnel in the unit where harassment is alleged to have occurred promptly receive a report including investigative findings and corrective action, to the extent allowed under DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982; and
- (11) Conduct and document follow-up with complainants and personnel in the unit to determine the effectiveness of corrective action and ensure that complainants are not subsequently subjected to reprisals or threats.

To assist you in complying with these guidelines, the Defense Equal Opportunity Management Institute (DEOMI) will coordinate with your training organizations to establish minimum standards for effective military and civilian sexual harassment training. In addition, the Under Secretary of Defense (Personnel and Readiness) will initiate a comprehensive study of sexual harassment in the Department of Defense and, in coordination with the DoD General Counsel, will prepare amendments reflecting the above guidance for incorporation into DoD Directive 1350.2, "The Department of Defense Military Equal Opportunity Program," and DoD Directive 1440.1, "The DoD Civilian Equal Opportunity (EEO) Program."